

The Honorable JAMES L. ROBART

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

SCOTT FRANCIS ICEBERG,

Plaintiff,

v.

STATE OF WASHINGTON,  
DSHS/DVR, ANN MARTIN, TRACY  
WILSON,

Defendants.

NO. C15-1232 JLR

DEFENDANTS' RESPONSE TO  
PLAINTIFF'S MOTION FOR  
ACCOMODATION

Division of Vocational Rehabilitation (DVR), an agency within the Department of Social and Health Services (DSHS), through its attorneys, ROBERT W. FERGUSON, Attorney General of Washington, and AMBER L. LEADERS, Assistant Attorney General, responds to Plaintiff's motion for accommodation.

As a general matter, Defendants do not object to Mr. Iceberg's request to communicate via email, mail or Skype<sup>1</sup>. However, Defendants strongly dispute Mr. Iceberg's characterization of Defendants' and Defendants' counsel's actions regarding their efforts to communicate and provide Mr. Iceberg with accommodations throughout this case.

<sup>1</sup> Presumably Mr. Iceberg means the instant messaging feature of Skype, as opposed to the audio and video features available via Skype.

1 Mr. Iceberg's motion follows Defendants' counsel's attempt to "meet and confer" pursuant to  
2 the federal and locals rules, which explicitly require in-person or telephonic discussions. *See*  
3 Fed. R. Civ. P. 26(c)(1) and LCR 1(c)(6) and 26(c)(1); Declaration of Amber Leaders (Leaders  
4 Decl.) ¶ 2, Attach A. Defendants' counsel has continued to communicate with Mr. Iceberg via  
5 email pursuant to his request, even going to extraordinary lengths to accomplish the joint status  
6 report electronically, only conducting one conversation via telephone in order to hold the  
7 FRCP 26 conference, which was directed to be by "direct and personal communication" by  
8 court order. Dkt. #16, at 2; Leaders Decl. ¶ 3. Defendants' counsel has continually  
9 communicated with Mr. Iceberg only via email, deviating only if directed to do so by the rules,  
10 by Mr. Iceberg's explicit permission, or by the Court itself. Leaders Decl. ¶ 3.

11 Indeed, given the ongoing difficulties faced by Defendants and Defendants' counsel in  
12 attempting to confer with Mr. Iceberg, Defendants believe it is appropriate for this Court to  
13 provide direction to the Parties on what forms of communication are acceptable, particularly in  
14 regards to "meet and confer" requirements pursuant to Fed. R. Civ. P. 26. Specifically, it  
15 would be useful for both Parties to have further guidance on whether alternative methods can  
16 be used to meet the "meet and confer" requirements. Fed. R. Civ. P. 26(c)(1). Further, under  
17 LCR 1(a), the rules "should be interpreted so as . . . to promote the just, efficient, speedy, and  
18 economical determination of every action and proceeding". LCR 1(a). Given Mr. Iceberg's  
19 assertion that discovery may be voluminous, Leaders Decl ¶ 2, Attach. A., allowing an  
20 alternative method to communicate, particularly when "meet and confer" is needed, would  
21 promote just and efficient determinations in this action. If this Court, in its discretion, will  
22 allow the Parties to consult via email or Skype, including for purposes of "meet and confer"  
23 requirements regarding discovery, Defendants do not object and would support such a  
24 measure.

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1 DATED this 19th day of September 2019.

2  
3 ROBERT W. FERGUSON  
Attorney General

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6 AMBER L. LEADERS, WSBA #44421  
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1 **CERTIFICATE OF SERVICE**

2 *Beverly Cox*, states and declares as follows:

3 I am a citizen of the United States of America and over the age of 18 years and am  
4 competent to testify to the matters set forth herein. I hereby certify that on this 19th day of  
5 September 2016, I electronically filed the foregoing document with the Clerk of the Court  
6 using the CM/ECF system, which will send notification of such filing to the following:

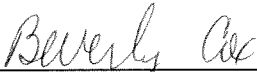
7 Scott F. Iceberg: scotticeberg@yahoo.com

8 A copy was also sent via U.S. Mail as follows:

9 Scott F. Iceberg  
10 6224 23rd Avenue NE  
Seattle, WA 98115

11 I declare under penalty of perjury under the laws of the state of Washington that the  
12 foregoing is true and correct.

13 DATED this 19th day of September 2016, at Tumwater, Washington.

14  
15   
16 BEVERLY COX  
17 Legal Assistant  
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